



CANTERBURY CITY COUNCIL

City of Cultural Diversity

Development Control Plan No. 23

Development Control Plan For The Control Of Development Legalised By State Parliament Under The Disorderly Houses Amendment Act 1995

Adopted by Council: 26 September 1996
Effective from: 23 October 1996

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1 INTRODUCTION

1.1 Where does the Code apply?

This Code applies to all brothel development within the City of Canterbury. Brothels are only allowed in Business zones and Council approval must be obtained.

1.2 What is the purpose of the Code?

The purpose of this Code is to set objectives and standards for brothel development within the City.

The purpose of this Code is to control brothel development legalised in Business zones by State Parliament, under the Disorderly Houses Amendment Act 1995. The Minister for Urban Affairs and Planning has stopped Council from prohibiting brothels under its Planning Scheme. Council is concerned about the possible impact of brothel development on surrounding properties and has prepared this Code to address these concerns.

The general objectives of this Code are to ensure that:

- ❖ Brothels are discreet, sensitively located and are not prominent within the community.
- ❖ Appropriate guidelines are established so that brothels are located at a reasonable distance from where people live and other sensitive land uses.
- ❖ Appropriate guidelines are established which discourage a concentration of brothels in close proximity to one another.
- ❖ Appropriate health and building standards are maintained.



2 DEFINITIONS

“Brothel” means a premises habitually used for the purpose of prostitution, or that have been used for that purpose and are likely to be used again for that purpose. A premises may constitute a brothel even though it is used by only one prostitute for the purposes of prostitution.

“Prostitution” includes acts of prostitution between persons of different sexes or the same sex, and includes:

- (a) Sexual intercourse as defined in Section 61H of the Crimes Act 1900; and
- (b) Masturbation committed by one person on another, for payment.



3 OPERATIONAL REQUIREMENTS

The following details are required to be submitted with a completed Development Application form:

- ❖ Number of persons working on the premises;
- ❖ Hours of operation;
- ❖ Number of rooms in the premises to be used for prostitution;
- ❖ Name of the operator of the proposed brothel.

Plan Information

- ❖ Location plan (showing proximity to all places of worship, schools, community facilities, child care centres, hospitals, rail stations, bus stops, all properties used for residential purposes, and any other place regularly frequented by children for recreational or cultural pursuits, within 200 metres of the site);
- ❖ Site plan and floor plan (including the use of each room);
- ❖ All entrances to and exits from the site;
- ❖ All windows of the proposed brothel and all windows on adjoining buildings;
- ❖ Location, number and layout of parking;
- ❖ Advertising sign (location, size, colour, illumination and content);
- ❖ Details of the existing and proposed external lighting;
- ❖ External colour scheme of the premises.

When considering an application for a brothel, Council will carefully consider the following issues:

- ❖ The distance between the proposed brothel and places of worship, schools, community facilities, child care centres, hospitals, rail stations, bus stops, all properties used for residential purposes, and any place regularly frequented by children for recreational or cultural pursuits;



- ❖ Whether the operation of the brothel could cause a disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood;
- ❖ Whether sufficient car parking has been provided;
- ❖ Whether suitable access has been provided to the brothel;
- ❖ Whether the operation of the brothel could cause a disturbance in the neighbourhood because of its size, operating hours, and the number of employees and/or clients;
- ❖ Whether the operation of the brothel could interfere with the amenity of the neighbourhood;
- ❖ The types of advertising signs;
- ❖ Whether the appearance of the brothel premises will be prominent in the neighbourhood;
- ❖ The points of consideration listed under Section 90 of the Environmental Planning and Assessment, 1979;
- ❖ Whether the brothel premises provides suitable access and facilities, including car parking, for disabled persons. Applicants should refer to Council's "Disability Access Checklist for Buildings" 1995, before submitting an application.
- ❖ Whether adequate security measures are proposed to be implemented by brothel operators to ensure the safety of staff and clients and to prevent any disturbance to surrounding premises.

3.1 Advertising/Notification

Before determining a Development Application, the views of the Police, owners and occupiers of properties in the neighbourhood will be sought and taken into consideration.



4 ACCESS AND LOCATION REQUIREMENTS

Objectives:

- ❖ To ensure brothels are located at a reasonable distance from residential occupancies and other sensitive land uses.
- ❖ To encourage the location of brothels above ground floor level.
- ❖ To prevent the concentration of brothels within close proximity to one another.
- ❖ To ensure safe access to brothels for staff and patrons.

Standards

- ❖ A brothel must not be located adjoining or within 100 metres walking distance of any residentially zoned site; and
- ❖ A brothel should not be located adjoining or within 200 metres walking distance of any place of worship, school, community facility, child care centre, hospital, rail station, bus stop, taxi stand, or any place regularly frequented by children for recreational or cultural pursuits.

Note: If there are circumstances when it is not relevant to comply with the above standard, applicants must provide a written submission detailing the reasons why this standard should be varied. The submission must also detail how the objectives of the Code will be satisfied.

- ❖ The preferred location for a brothel is above ground floor level, however access may be provided from the street. If the brothel is at street level it should not be in a shopfront location or at the front of premises.



- ❖ Access to brothels is to be discreet, particularly if provided from street level. Council will not approve brothel applications where access to the brothel is common to other commercial uses or to dwellings.
- ❖ No patron access is to be provided from a laneway.
- ❖ The operation of a brothel must not cause a disturbance in the neighbourhood taking into account adjacent land uses including any other brothels which may be operating in the neighbourhood.
- ❖ A brothel must not be located within the vicinity of a licensed premises i.e. hotel, club, restaurant.
- ❖ Brothel premises must not contain more than six separate rooms for the purpose of prostitution and associated activities, including office and reception room. Rooms having an area exceeding 18 square metres will be considered as two rooms for the purpose of this Code.
- ❖ A brothel should not be located in proximity to another brothel so as to create a concentration of this type of use in an area.



5 CAR PARKING

Objectives

- ❖ To ensure adequate parking is provided for people working on the site and patrons, and to ensure this parking does not adversely affect the surrounding area, particularly residential properties.

Standards

- ❖ Brothels in major commercial areas must provide one car parking space per two people working on the site at any time.
- ❖ Brothels in other commercial areas must provide one car parking space per person working on the site at any time.
- ❖ In addition to the above standards, applicants must provide written details and evidence of where patrons are likely to park.

Note: Applications that are likely to result in patron parking in residential streets will not be favoured by Council.



6 HEALTH AND BUILDING REQUIREMENTS

Objectives

- ❖ To ensure brothels comply with the relevant health and building regulations including those relating to noise and ventilation.

Standards

- ❖ All brothels must comply with the necessary services and facilities required for Class 6 buildings under the Building Code of Australia.
- ❖ All brothels must comply with the requirements of the Public Health Act, 1991 and the requirements of the New South Wales Health Department.
- ❖ All bars and food preparation areas must comply with the requirements of the Food Act and Council's Code for Food Premises.
- ❖ The use of the premises must not give rise to:
 - (a) A sound level at any point on the boundary of a site greater than the background levels specified in Australian Standard 1055, "Acoustic Description and Measurement of Environmental Noise"
 - (b) An "offensive noise" as defined in the Noise Control Act 1975.
- ❖ The brothel must be ventilated in accordance with the requirements of Part F of the Building Code of Australia.



7 SIGNAGE

Objectives

- ❖ To ensure brothel advertising signage is discreet and does not cause offence to the public.

Standards

- ❖ Only one discreet sign per premise, having a maximum size of 0.5 square metre.
- ❖ Sign wording must be limited to the trade name of the business operated and the address of the premises.
- ❖ The content, illumination, size, shape and location of the sign must not interfere with the amenity of the neighbourhood.



8 STANDARD CONDITIONS FOR ALL BROTHEL APPROVALS

Where consent is granted, a specified operator will be nominated on the consent. Should the operator change, Council must be notified prior to the new operator commencing.

A condition will be imposed on all consents granted for brothel premises prohibiting the provision or consumption of liquor on the premises.

In the public interest, approval will be limited for a period of twelve (12) months after which Council will review effects of the use on the amenity of the area and the desirability of issuing a further limited approval and the length of time of any such approval.

Council may apply to the Land and Environmental Court of New South Wales under Section 17 of the Disorderly Houses Amendment Act, 1995 (refer Attachment 1 to this Plan) for premises not to be used as a brothel. Council can also initiate proceedings under the Environmental Planning and Assessment Act, 1979 to ensure that brothels comply with the requirements of that Act.



ATTACHMENT 1: EXTRACT FROM THE DISORDERLY HOUSES AMENDMENT BILL 1996

SECTION 17

Application to Land and Environment Court for premises not to be used as a brothel

- (1) The Land and Environment Court may, on application by a local council, make an order that an owner or occupier of a premises that are a brothel and are situated within the area of the council is not to use or allow the use of that premises for the purpose of a brothel.
- (2) The local council must not make an application in relation to a brothel unless it is satisfied that it has received sufficient complaints about the brothel to warrant making of the application.
- (3) The complaints must have been made by:
 - (a) residents of the area in which the brothel is situated who live in the vicinity of the brothel, or
 - (b) residents of the area in which the brothel is situated who use, or whose children use, facilities in the vicinity of the brothel, or
 - (c) occupiers of premises that are situated in the area in which the brothel is situated and in the vicinity of the brothel.
- (4) The application must state the reasons why the local council is of the opinion that the operation of the brothel should cease on one of the considerations referred to in subsection (5) (a), (b), (c), (d), (e), or (f).
- (5) In making an order under this section the Land and Environment Court is to take into consideration only the following:
 - (a) whether the brothel is operating near or within view of a church, hospital, school or any place regularly frequented by children for recreation or cultural activities,



- (b) whether the operation of the brothel causes a disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar amount of noise and vehicular and pedestrian traffic,
 - (c) whether sufficient off street parking has been provided if appropriate in the circumstances,
 - (d) whether suitable access has been provided to the brothel,
 - (e) whether the operation of the brothel causes a disturbance in the neighbourhood because of its size and the number of people working in it,
 - (f) whether the operation of the brothel interferes with the amenity of the neighbourhood,
 - (g) any other matter that the Land and Environment Court considers is relevant.
- (6) This section extends to premises within an area that is not a local government area and in the case reference to a local council is to be read as a reference to the prescribed authority for the area.
- (7) In this section, *church*, *hospital* and *school* have the same meanings as in the *Summary Offences Act 1988*.

